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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/669,801

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Masahiro Terada

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EXAMINER

NEGRON, WANDA M

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/669,801	Applicant(s) TERADA, MASAHIRO	
	Examiner Wanda M. Negrón	Art Unit 2622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. In the previous Office action, the Examiner mistakenly objected to lines 28-30 on **page 3** of the disclosure. The intended objection was to be directed to lines 28-30 on **page 2** of the disclosure. The meaning of the sentence on page 2 is unclear, and does not seem to address the reason for which an editor is needed to determine the transition effects to be used between motion picture segments. Appropriate correction is required.

Claim Objections

2. **Claim 12** is objected to because of the following informalities:
- Claim 12 recites, "a display device for displaying a list of images, a user using said display device to select plural images from said displayed list of images to be edited", which is unclear. The examiner suggests replacing with the phrase -- a display device for displaying a list of images, wherein a user using said display device selects plural images from said displayed list of images to be edited--.
- Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. The 35 USC § 101 rejection of claim 4 has been **withdrawn** in view of Applicant's amendment filed on 5/23/2007.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1-5, 9, 11, 13, 17 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Kellock et al. (US Pre-Grant Publication 2004/0027369 A1).**

6. Regarding **claim 1**, Kellock et al. disclose an image editing apparatus, i.e. an editing system (see Abstract), comprising a recording device, i.e. a disk or non-volatile memory (see paragraph [0061]), which records a plurality of images, i.e. video segments (101), associated with image related information, i.e. video descriptors (111), including at least one of a shooting date and time, a shooting condition, a shooting place, and a user name (see paragraphs [0056] and [0062]); a video effect recording device, i.e. style information (106) which would be inherently stored in a memory device in order for the editing system to make use of it, which records image related information associated with a video effect during image switching, i.e. transition effects parameters and their input-dependent values (see paragraphs [0101] and [0102]); a comparison device, i.e. a constructor (121), which reads first image related information about a first image, e.g. a first video segment descriptor of low brightness (see paragraph [0106], lines 10-13), recorded in the recording device and second image

related information about a second image, e.g. a second video segment descriptor of low brightness (see paragraph [0106], lines 10-13), recorded in the recording device, and compares the image related information about the first and second images, e.g. verifies that the low brightness shooting condition is satisfied by both segments (see paragraph [0106], lines 10-13); a video effect selection device, i.e. a constructor (121), which reads from the video effect recording device a video effect according to matching image related information between the image related information about the first and second images as a result of the comparison, e.g. determining the use of slow dissolve transitions when the video segments to be edited satisfy a low brightness condition (see paragraph [0106], lines 10-13); an image joining device, i.e. a renderer (123), which reads the first and second images recorded in the recording device, and automatically joins the images by applying the video effect read by the video effect selection device to a portion in which the images are to be joined in time, e.g. automatically (see paragraph [0090]) concatenates a first and a second video segment of low brightness with slow dissolve transitions (see paragraph [0106], lines 10-13); and an output device, i.e. an audio-visual monitor (see paragraph [0075], lines 7-9), which outputs the joined images, i.e. an output production (108).

7. **Claim 2** has limitations similar to those treated in the above rejection of claim 1, and those limitations are met by Kellock et al. as discussed above. In addition, **claim 2** recites the following limitations also anticipated by Kellock et al.: a recording medium loading unit which loads the recording device, i.e. an inherent means for importing embedded descriptors to the editing device (see paragraph [0062], lines 1-10), and the

use of a range of image related information instead of matching image related information, e.g. the use of an indirect matching with derived descriptors (see paragraph [0171], lines 6-9, and paragraph [0172], lines 5-8) instead of identical type descriptors.

8. **Claim 3** has limitations similar to those treated in the above rejection of claim 1, and those limitations are met by Kellock et al. as discussed above. In addition, **claim 3** recites the following limitation also anticipated by Kellock et al.: the use of a range of image related information instead of matching image related information, e.g. the use of an indirect matching with derived descriptors (see paragraph [0171], lines 6-9, and paragraph [0172], lines 5-8) instead of identical type descriptors.

9. **Claim 4** is drawn to an image editing program for performing the operation process or steps corresponding to the apparatus claimed in claim 3, said apparatus also comprising an information processing device for controlling and synchronizing the operation of the recording device, the video effect recording device, the comparison device, the video effect selection device, the image joining device, and the output device. **Claim 4** corresponds to apparatus claim 3 and is rejected for the same reasons of anticipation as used above, since it would have been inherent that a processing unit would have been required in order to operate both, the editing apparatus claimed in claim 3, and the editing system disclosed by Kellock et al..

10. Method **claim 5** is drawn to the method of using the corresponding apparatus claimed in claim 3. Therefore, method **claim 5** corresponds to apparatus claim 3 and is rejected for the same reasons of anticipation as used above.

11. Regarding **claim 9**, Kellock et al. teach that said video effect selection device further reads from the video effect recording device: a video effect according to image related information similar in a predetermined range when there is image related information similar in a predetermined range between the image related information about the first and second images as a result of the comparison; and a video effect according to no matching image related information when there is no matching image related information between the image related information about the first and second images as a result of the comparison. For example, Kellock et al. teach using slow dissolves transitions for segments of low brightness, and other type of transition for segments of high brightness (see paragraph [106]).

12. Regarding **claim 11**, Kellock et al. disclose an input device, i.e. a GUI, for selecting images to be edited from among said plurality of images (see paragraphs [0190], [0195]).

13. Regarding **claim 13**, Kellock et al. teach that the style information recorded in a recording medium comprises a table including a list of said image related information, e.g. image brightness level, and a video effect associated with said image related information, e.g. transition effect type (e.g., see table 1 on page 7).

14. Regarding **claim 17**, Kellock et al. teach that said image joining device joins said images by automatically applying said video effect during image switching, i.e. applying a transitional effect within a media timeline wherein a first image is ending and a second image is beginning (e.g., see figure 2).

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15. Regarding **claim 18**, Kellock et al. teach that said image-editing apparatus comprises one of an electronic camera, a personal computer, and a personal digital assistant (PDA) (see paragraph [0020] and [0288]).

Claim Rejections - 35 USC § 103

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. **Claims 6-8, 10, 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kellock et al. (US Pre-Grant Publication 2004/0027369 A1).**

18. Regarding **claim 6**, as mentioned in the discussion of claim 1 above, Kellock et al. teach all the limitations of the parent claim. Official notice is taken that the concept of having an image file including at least one of a primary image of a moving picture in an image recording format, a thumbnail image for listing a primary image, and image related information about a primary image is well known in the art. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have an image file including at least a thumbnail for representing a primary image because it would be easier and faster for the user to recognize the video segment.

19. Regarding **claim 7**, Kellock et al. disclose that the video descriptors 111 embedded within or linked to the input video or image comprise at least a shooting date and time, a focal distance, and a GPS location (see paragraph [0062]).

20. Regarding **claim 8**, official notice is taken that recording still and motion images using JPEG and MPEG formats, respectively, is old and well known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use JPEG and MPEG compression formats because they are ISO/IEC standards and, therefore, implementation is known to be effective.

21. Regarding **claim 10**, as mentioned in the discussion of claim 1 above, Kellock et al. teach all the limitations of the parent claim. Kellock et al. also disclose that the invention may be embodied within a computer, a PDA, a still camera and a video camera (see paragraph [0020]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include a mode switch for putting said image editing apparatus in an image editing mode because, since computers, PDAs, still cameras and video cameras operate in modes other than image editing modes, any of these embodiments would require a way to change modes to operate as an image editor.

22. Regarding **claim 12**, Kellock et al. disclose a display device, i.e. an audio-visual monitor (see paragraph [0075], lines 7-9). Kellock et al., however, do not explicitly teach displaying a list of images, wherein a user using said display device selects plural images from said displayed list of images to be edited. Official notice is taken that selecting plural images from a displayed list of images is well-known in the art. It would

have been obvious to one having ordinary skill in the art at the time the invention was made to display a list of images, wherein a user using selects plural images from said displayed list of images because the user herself can select the images she would like to edit, minimizing unnecessary or unwanted editions.

23. Regarding **claim 14**, as mentioned in the discussion of claims 1 and 2 above, Kellock et al. teach all the limitations of the parent claim. Kellock et al., however, fail to explicitly teach that said image related information is included in said list in order of priority. Official notice is taken that prioritizing recorded image related information is well-known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to prioritize recorded image related information by user preference because it would increase the success of the editing process since the user's preferences are taken into account.

24. Regarding **claims 15 and 16**, Kellock et al. fail to explicitly teach that said comparison device compares first image related information for said first and second images, wherein if said first image related information for said first image matches said first image information for said second image, said video effect selection device selects said video effect associated with said first image related information and terminates a video effect selection process, and wherein if said first image related information for said first image does not match said first image information for said second image, said comparison device compares second image related information for said first and second images.

Official notice is taken that prioritizing recorded image related information is well-known in the art. It would have been obvious to one having ordinary skill in the art at the time the invention was made to prioritize recorded image related information by user preference and selecting a video effect on the basis of said prioritization because it would increase the success of the editing process since the user's preferences are taken into account.

Response to Arguments

25. Applicant's arguments filed 5/23/2007 have been fully considered but they are not persuasive.

Applicant submits on page 12 that the Kellock reference does not teach or suggest an image-joining device, which, *inter alia*, **automatically joins images by applying a video effect read by a video effect selection device**. Furthermore, on page 13, Applicant alleges that the renderer 123 and the style information taught by Kellock are unreasonably equated with the image-joining device and the "video effect" of the claimed invention, respectively. The Examiner respectfully disagrees.

26. The Kellock reference discloses in the abstract an editing system for automatically "editing input data to generate an output production". Furthermore, the Kellock reference discloses in the last sentence of paragraph [0010] that one of the goals of the Kellock invention is to reduce the production time to playback duration ratio "through automation, to the point where in some cases acceptable results can be produced without any user intervention". In addition, paragraph [0090] teaches that the

invention “creates an output production automatically by making the decisions itself”, where an output production is “a piece of time-based media such as a video, animation, or timed sequence of images” subjected to one or more processes (see paragraph [0047]). These processes include “transformation”, in which the elements of the input material may be transformed using “special effects” (see paragraph [0051]), and “combination”, in which images are “concatenated with overlaps allowing the use of transitions such as dissolves and wipes” (see paragraph [0052]).

In view of the teachings mentioned above, it is clear that the Kellock reference does teach an image-joining device that **automatically joins images by applying a video effect read by a video effect selection device.**

27. As per Applicant’s allegation that the renderer 123 interprets “Music Support Group (MSG) data as instructions”, the Examiner submits that Kellock et al. in paragraph [0090] teach that the constructor decides which process to apply to the image input data, “while the renderer [123] performs the actual processing”. In other words, the renderer interprets the “media scene graph” (MSG) constructed by constructor 121 (see paragraph [0072]), and performs the actual editing of the input media (e.g. see figure 2) applying processes such as “transformation”, in which the elements of the input material may be transformed using “special effects” (see paragraph [0051]), and “combination”, in which images are “concatenated with overlaps allowing the use of transitions such as dissolves and wipes” (see paragraph [0052]). After editing is completed, the renderer 123 transfers the output production, e.g. an edited sequence of images including transition video effects, to an output file or to a

display for user review. Therefore, it is completely reasonable to equate the image-joining device of the claimed invention with the renderer 123 taught by Kellock et al..

28. Regarding Applicant's allegation that equating the style information in Kellock with the "video effect" of the claimed invention is "completely unreasonable", the Examiner submits that, in paragraph [0101], the Kellock reference discloses "combination parameters" as an example of parameters included in the style information. The "combination parameters" include well-known video effects as dissolve/wipe transitions. Therefore, it is completely reasonable to equate the "video effect" of the claimed invention with the style information taught by Kellock et al..

For the reasons stated above, the rejection is still deemed proper and has been maintained.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Abecassis (US Patent No. 5,434,678) discloses a video system comprising "video technologies and video software architectures for the automated selected retrieval of non-sequential stored parallel, transitional and overlapping video segments from a single variable content program source, responsive to a viewer's preestablished video content performance".
- Shiiyama (US Patent No. 7,075,683 B1) discloses an automatic editing system which calculates degree of similarity among a plurality of image frames,

determines scene-change frames, and performs automatic editing, giving priority to scenes whose scene-change frame has a low degree of similarity to an immediately preceding frame.

- Nakamura (US Patent No. 4,987,552) teaches automatic editing equipment for combining input information relating to the face of a customer and information relating to a make-up method.

30. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

31. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Wanda M. Negrón whose telephone number is (571) 270-1129. The examiner can normally be reached on Mon-Fri 6:30 am - 4:00 pm alternate Fri off.

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32. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Ometz can be reached on (571) 272-7593. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Wanda M. Negrón/

Examiner, Art Unit 2622
August 6, 2007

A handwritten signature in black ink, appearing to read 'David Ometz', with a long horizontal stroke extending to the right.

DAVID OMETZ
SUPERVISORY PATENT EXAMINER